UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,321	06/29/2001	Preston J. Hunt	42390P11147	8383

7590 05/16/2006	EXAMINER
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP	POLTORAK, PIOTR

ART UNIT	PAPER NUMBER
2134	

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DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 February 2006*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,6,7,10-12,20-23,25 and 26* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,6,7,10-12,20-23,25 and 26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1. The Amendment, and remarks therein, received on 2/17/06 have been entered and

    carefully considered. The newly introduced limitation has required a new search and

    consideration of the pending claims. The new search has resulted in newly

    discovered prior art. New grounds of rejection based on the newly discovered prior

    art follow below.

2. The text of those sections of Title 35, U.S. Code not included in this action can be

    found in a prior office action.

Response to Amendment

3. Applicant's arguments have been directed towards a newly introduced limitations

    introduced to the independent claims 1, 10, 20. The newly recited limitations are

    addressed in the current Office Action.

4. Claims 1-4, 6-7, 10-12, 20-23 and 25-26 have been examined.

Claim Rejections - 35 USC § 112

5. Claims 1-4, 6-7, 10-12, 20-23 and 25-26 are rejected under 35 U.S.C. 112, second

    paragraph, as failing to set forth the subject matter which applicant(s) regard as their

    invention.

6. The limitations in the independent claims 1, 10 and 20 recite: "combining the first

    plurality of message digest into a single client message digest" and "combining the

    second plurality of message digest into a single repository digest" are not clear. It is

not clear whether the single digest is a digest of the client digests or whether the single client digest is just a single file message.

7. Given the fact that placing the numerous digest at the same time to a single file to be compared with the synchronized copies in a repository would be at least obvious and the fact that applicant's specification seems to suggest that the single client digest is a digest of digest ("a similar message digest calculated from the database of message digests on the repository", paragraph 34) this interpretation is used in addressing the claim limitations.

8. Claims 2-4, 6-7, 11-12, 21-23 and 25-26 are rejected by virtue of their dependence.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

9. Claims 1-4, 6-7, 10-12, 20-23 and 25-26 are newly rejected under 35 U.S.C. 103(a) as obvious over Margolus (U.S. Pub. No. 20040143743) in view of Chan (U.S. Patent No. 6748538) and Bolosky (U.S. Pub. No. 20020194484).

As per claims 1-4, 6-7, 10-12, 20-23 and 25-26 Margolus teaches a method comprising generating a first plurality of message digests that correspond to a first plurality of file contents (digital fingerprints of data items on a client [10-11]) on a client connected with a network (clients connected with a repository [11], Fig. 1), wherein the first plurality of message digests uniquely identify the first plurality of file contests (each fingerprint uniquely identifies each files [10]), generating a second

plurality of message digests (the repository keeps copy of some of the client's

fingerprints [10]) that correspond to a second plurality of file contents on a repository

(if no corresponding fingerprint kept on the client is found in the repository, the

corresponding file is copied to the repository [10]) connected with the network ([11],

Fig. 1), wherein the second plurality of message digests uniquely identify the second

plurality of file contents (as disclosed above). Furthermore, Margolus teaches the

cryptographic hash comprising 128-160 bits (SHA-1 [59]), a back up of the local file

system from [54] and disclose that the local data digests are first used to check

whether or not the repository already contains a copy of the local data digests.

Margolus also teach that the first plurality of file contents comprises a subset of files

stored on the client [59].

10. Margolus does not teach combining the first plurality of message digests into a

single client message digest and combining the second plurality of message digest

into a single repository message digest followed by comparing the single client

message digest with the single repository message digest to determine file contents

that do not match.

Chan teaches combining the first plurality of message digest into a single client

message digest (col. 3 line 45- col. 4 line 7) and Bolosky provides the motivation to

combine.

It would have been obvious to one of ordinary skill in the art at the time of applicant's

invention to combine the first plurality of message digest into a single client message

digest given and to combine the second plurality of message digest into a single

repository message digest followed by comparing the single client message digest

with the single repository message digest to determine file contents that do not

match given the benefit of performing fewer computations.

Conclusion

The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure: Chauhan (U.S. 6330557).

Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Peter Poltorak whose telephone number is (571) 272-

3840. The examiner can normally be reached Monday through Thursday from 9:00

a.m. to 4:00 p.m. and alternate Fridays from 9:00 a.m. to 3:30 p.m

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Jacques Louis Jacques can be reached on (571) 272-6962. The fax phone

number for the organization where this application or proceeding is assigned is (571)

273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For

more information about the PAIR system, see http://pair-direct.uspto.gov. Should you

have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at 866-217-9197 (toll-free).